



**PATENT**  
Attorney Docket No.: A-55320-2/RFT/TAL

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

*In re* application of: ) Examiner: Schwadron, R.  
PHILIPPE POULETTE ) ) Group Art Unit: 1644  
Serial No. 08/630,383 ) )  
Filed: April 10, 1996 ) )  
For: CYTOMODULATING CONJUGATES) )  
OF MEMBERS OF SPECIFIC ) )  
BINDING PAIRS ) )

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NUMBER EL465283960US

DATE OF DEPOSIT February 22, 2000

I HEREBY CERTIFY THAT THIS PAPER OR FEE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE "EXPRESS MAIL POST OFFICE TO ADDRESSEE" SERVICE UNDER 37 CFR 1.10 ON THE DATE INDICATED ABOVE AND IS ADDRESSED TO: ATTENTION: OFFICE OF PETITIONS, ASSISTANT COMMISSIONER FOR PATENTS, BOX DAC, WASHINGTON, DC 20231.

TYPED NAME Hammid Sanchez

SIGNED 

**DECLARATION OF DR. MARK T. KRESNAK**

I, Mark T. Kresnak, hereby declare and state as follows:

1. I was an associate attorney with the firm of Flehr Hohbach Test Albritton & Herbert LLP, Four Embarcadero Center, Suite 3400, San Francisco, California 94111 from 1995 until April of 1999, and I was the working attorney responsible for the application at issue until my departure in 1999.

2. Upon information and belief, I received the Advisory Action mailed February 3, 1998 shortly after receipt by our office. In response, I promptly reviewed the case and determined that Rule 129 practice would be an appropriate procedural mechanism to allow the Patent Examiner an opportunity to review the responsive arguments presented in our Amendment After Final. I based this determination on the fact that the subject application claimed priority to U.S. Patent Application Serial No. 07/690,530 filed on April 23, 1991. Accordingly, I prepared and submitted the Communication Under 37 C.F.R. §1.129 to the Patent and Trademark Office on March 2, 1998, requesting application of transitional after final practice.

FEB. 15, 2000 12:06PM FLEHR OHLBACH TEST

NO 8476 P. 3

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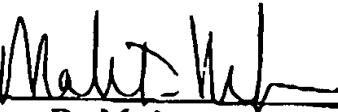
3. Upon information and belief, I subsequently received and reviewed the Defective Notice of Appeal or Brief mailed May 18, 1998. After reviewing the Examiner's comments in this communication I was confident that my interpretation of Rule 129 practice was correct. I therefore submitted a response to the Defective Notice of Appeal or Brief along with an explanation of Petitioner's position and an Official Gazette citation in support, in an attempt to convince the Patent Examiner that transitional after final practice was appropriate for this application.

4. I did not receive or review any reply to my communication sent on October 2, 1998, and upon my departure in April 1999 I believed that the application was still pending and that continuing prosecution practice would be applied.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that willful, false statements may jeopardize the validity/enforceability of the application or any patent issued thereon.

2/21/00

Dated

  
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Dr. Mark T. Kresnak